IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA NO.2771 OF 2003
DATE OF DECISION: 30-08-2007

Gurcharan Singh

.....APPELLANT

VERSUS

Jagtar Singh and others

.....RESPONDENTS

CORAM:- HON'BLE MR.JUSTICE HEMANT GUPTA

PRESENT: Mr. Suresh Goyal, Advocate
for the appellant.

Mr.Tribhuvan Singla, Advocate
for the respondent.

HEMANT GUPTA, J.(Oral)

The defendants are in second appeal aggrieved against the judgment and decree passed by the learned First Appellate Court, whereby the suit for permanent injunction holding that the defendant is entitled to protect his possession on the basis of rent note Ex.P4 dated 20-08-1989 was decreed.

Defendant No.2-Bharat Lal was the owner of the suit property. He executed the sale deed in favour of his sons, namely, Parveen Kumar and Narender Kumar on 25-02-1997. The appellant purchased the property in dispute on 15-05-1997 for sons of Bharat Lal.

The plaintiff-respondent filed a suit for injunction alleging therein that he is in possession of the shop and that he has taken the shop on rent from Bharat Lal vide rent note dated 20-08-1989 and thus

he cannot be dis-possessed forcibly and illegality.

The issues framed include whether the rent note dated 20-08-1989 was executed by defendant No.2 in favour of the plaintiff and whether the plaintiff was in possession of the shop in dispute. Both the Courts below have recorded the concurrent findings of fact that the plaintiff is in possession over the suit property on the strength of rent note Ex.P4 and consequently decreed the suit.

Before this Court the learned counsel for the appellant has vehemently argued that the rent note Ex.P4 is inadmissible in evidence and that the said document was granted collusively by defendant No.2 in favour of the plaintiff and thus the Courts below have erred in granting decree in favour of the plaintiff.

The rent note dated 20-08-1989 was executed for a period of 20 years. The rent note Ex.4 is bilateral document executed for 20 years and thus it was required to be compulsory registered. The document, which is required to be compulsory registered can be received as an evidence of any collateral transaction in terms of Section 49 of the Registration Act, 1908. Thus, being unregistered document, the plaintiff could rely upon such rent note Ex.P4 for the purpose of proof of his possession as that of a tenant. In view thereof, the first argument raised by the learned counsel for the appellant is without any merit.

The argument that such document is collusive is again not sustainable. The document was executed long time back on 20-08-1989. The defendant-appellant has not appeared as a witness and the attorney, who appeared for the appellant could not depose in respect of any material substance. There is no circumstance produced on record by the defendant to

show that such rent deed executed 8 years prior to the sale is collusive.

In view of the above, I do not find any patent illegality or irregularity in the findings recorded by the First Appellate Court, which may give rise to any substantial question of law in the present appeal.

Hence, the appeal is dismissed.

(HEMANT GUPTA)
JUDGE

August 30, 2007
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